

FIRST REGULAR SESSION

SENATE BILL NO. 506

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 25, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2153S.011

AN ACT

To amend chapter 320, RSMo, by adding thereto thirteen new sections relating to fire sprinklers, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 320, RSMo, is amended by adding thereto thirteen
2 new sections, to be known as sections 320.400, 320.402, 320.404, 320.406,
3 320.408, 320.410, 320.412, 320.414, 320.416, 320.418, 320.420, 320.422, and
4 320.428, to read as follows:

**320.400. 1. As used in sections 320.400 to 320.428, the following
2 terms shall mean:**

3 (1) "Advisory council", the fire sprinkler advisory council
4 established in section 320.416;

5 (2) "Certificate of registration", the document issued to a
6 contractor under sections 320.400 to 320.428 authorizing such person or
7 organization to conduct business in this state. Such certificate shall
8 specify whether it is a residential certificate or an unlimited
9 certificate. A residential certificate's application is limited to fire
10 sprinkler systems for one or two family residential dwellings as defined
11 by the National Fire Protection Association (NFPA) Standard 13D. An
12 unlimited certificate's application applies to all fire sprinkler systems;

13 (3) "Contractor", a person or organization that offers to
14 undertake, represents itself as being able to undertake, or does
15 undertake the planning, sale, installation, or servicing of a fire
16 sprinkler system or any part of such a system;

17 (4) "Fire sprinkler system", a suppression system which requires
18 individual calculation and layout in accordance with nationally
19 recognized standards, such as those of the National Fire Protection

20 Association, to protect the interior or exterior of a specific building,
21 structure, or special hazard from fire by conveying water, with or
22 without other agents, to dispersal openings or devices. Such systems
23 also include any overhead and underground fire mains beginning at the
24 point of service, fire hydrants and hydrant mains, standpipes and hoses
25 connected to sprinkler systems, sprinkler tank heaters, air lines,
26 thermal systems used in connection with fire sprinkler systems, and
27 tanks and pumps connected to fire sprinkler systems;

28 (5) "Installation", the initial placement of fire sprinkler
29 equipment or the extension, modification, or alteration of equipment
30 after the initial placement, and includes the inspection and testing of
31 equipment attendant to the placement or alteration of fire sprinkler
32 equipment;

33 (6) "License", the document issued to a responsible managing
34 employee or residential responsible managing employee under sections
35 320.400 to 320.428 authorizing such employee to engage in the
36 automatic fire sprinkler system business in this state. Such license
37 shall specify whether it is a residential license or an unlimited license.
38 A residential license's application is limited to fire sprinkler systems
39 for one or two family residential dwellings as defined by the National
40 Fire Protection Association (NFPA) Standard 13D. An unlimited
41 license's application applies to all fire sprinkler systems;

42 (7) "Organization", a corporation, a partnership or other business
43 association, a governmental entity, or any other legal or commercial
44 entity;

45 (8) "Person", a natural person, including an owner, manager,
46 officer, employee, or occupant;

47 (9) "Point of service", the point at which the underground piping
48 for a sprinkler system using water as the extinguishing agent becomes
49 used exclusively for the sprinkler system;

50 (10) "Registered firm" or registered contract", a firm holding a
51 valid certificate of registration issued under sections 320.400 to 320.428;

52 (11) "Residential responsible managing employee", a licensed full-
53 time employee of a contractor that plans, sells, installs, or services fire
54 sprinkler systems for one or two family residential dwellings as defined
55 by the National Fire Protection Association Standard 13D, who is
56 designated by the contractor to assure that each system installed or

57 serviced meets the standards provided by law;

58 (12) "Responsible managing employee", a licensed full-time
59 employee of a contractor that plans, sells, installs, or services a fire
60 sprinkler system, who is designated by the contractor to assure that
61 each system installed or serviced meets the standards provided for by
62 law;

63 (13) "Service", to inspect, test, or repair fire sprinkler equipment
64 in order to furnish or return the fire sprinkler system to operational
65 condition, and including maintenance contracts;

66 (14) "Special agent fire suppression system", an approved system,
67 and components thereof, which requires individual calculations and
68 layout in accordance with the manufacturer's instructions to determine
69 the flow rates, nozzle pressures, quantities of extinguishing agent, and
70 number and types of nozzles for protecting one or more hazards by
71 suppressing or extinguishing fire. These systems include dry chemical
72 systems, carbon dioxide systems, halogenated and gaseous agent
73 systems, foam systems, and wet chemical systems not connected to fire
74 sprinkler systems. Special agent fire suppression systems shall not
75 include a fire sprinkler system.

320.402. 1. The provisions of sections 320.400 to 320.428 and the
2 rules and regulations promulgated under sections 320.400 to 320.428
3 shall have uniform force and effect throughout the state. A
4 municipality or county may not enact an order, ordinance, rule, or
5 regulation requiring a person or organization to obtain a certificate of
6 registration or license from the municipality or county.

7 2. Notwithstanding any other provisions of sections 320.400 to
8 320.428, a municipality or county may require contractor to obtain a
9 permit and pay a fee therefor for the installation of a fire sprinkler
10 system and require the installation of such system in conformance with
11 the building code or other construction requirements of the
12 municipality or county, but shall not impose qualification or financial
13 responsibility requirements other than proof of a valid certificate of
14 registration.

15 3. Sections 320.400 to 320.428 do not apply to:

16 (1) A person or organization that only sells or supplies products
17 or materials to a contractor with a certificate of registration;

18 (2) The installation or servicing of special agent fire suppression

19 systems installed in compliance with the National Fire Protection
20 Association Standards for the installation of such special agent fire
21 suppression systems;

22 (3) A regular employee of a contractor with a certificate of
23 registration;

24 (4) Inspection activities conducted as part of an insurance or
25 engineering survey;

26 (5) Inspection activities performed by a government official as
27 part of code enforcement activities; and

28 (6) Routine observation of the condition of fire sprinkler
29 equipment by the maintenance staff of the owner or tenant of the
30 property.

31 4. Nothing in sections 320.400 to 320.428 shall be deemed to limit
32 or restrict the practice of engineering by licensed or certified
33 professional engineers.

320.404. 1. The state fire marshal shall administer sections
2 320.400 to 320.428 and may issue rules necessary to its
3 administration. Any rule or portion of a rule, as that term is defined
4 in section 536.010, RSMo, that is created under the authority delegated
5 in this section shall become effective only if it complies with and is
6 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
7 section 536.028, RSMo. This section and chapter 536, RSMo, are
8 nonseverable and if any of the powers vested with the general assembly
9 pursuant to chapter 536, RSMo, to review, to delay the effective date,
10 or to disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after August 28, 2009, shall be invalid and
13 void. The state fire marshal, in adopting necessary rules, may adopt
14 financial responsibility requirements for applicants and registered
15 firms, and to the greatest extent possible, shall utilize recognized
16 standards for the planning, installation and service of fire sprinkler
17 systems such as those adopted by a federal law or regulation, those
18 published by nationally recognized organizations establishing
19 standards, or those developed by individual manufacturers.

20 2. Under the general authority provided under subsection 1 of
21 this section, the state fire marshal shall promulgate rules for the
22 protection and preservation of life and property in controlling:

23 (1) The registration of a person or an organization engaged in
24 the business of planning, selling, installing, or servicing fire sprinkler
25 systems; and

26 (2) The requirements for planning, selling, installing, or
27 servicing fire sprinkler systems, by:

28 (a) Determining the criteria and qualifications for certificate of
29 registration holders;

30 (b) Evaluating the qualifications of an applicant for a certificate
31 of registration to engage in the business of planning, selling, installing,
32 or servicing fire sprinkler systems and issuing certificates to qualified
33 applicants;

34 (c) Determining the criteria and qualifications for licenses; and

35 (d) Conducting examinations and evaluating the qualifications
36 of applicants for licenses and issuing licenses to qualified applicants.

37 3. The state fire marshal shall establish a procedure for
38 reporting and processing complaints relating to the business of
39 planning, selling, installing, or servicing fire sprinkler systems in this
40 state.

41 4. The state fire marshal may, after notice and opportunity for
42 hearing, increase or decrease the limits of insurance coverage required
43 under section 320.410.

320.406. 1. A contractor shall apply to the state fire marshal for
2 a certificate of registration on a form and in a manner prescribed by
3 the state fire marshal. The application fee for an unlimited certificate
4 of registration shall be an amount not to exceed one hundred dollars,
5 and the fee for issuance of either the initial or the renewal of an
6 unlimited certificate of registration shall be an amount not to exceed
7 one hundred dollars, unless subject to subsection 2 of section
8 320.408. The application fee for a residential certificate of registration
9 shall be an amount not to exceed one hundred dollars and the fee for
10 the issuance or the renewal of a residential certificate of registration
11 shall not exceed one hundred dollars, unless subject to subsection 2 of
12 section 320.408.

13 2. Each contractor shall employ at least one licensed responsible
14 managing employee or one licensed residential responsible managing
15 employee on a full-time basis. A contractor shall not undertake the
16 installation or service of a fire sprinkler system beyond the scope of the

17 license of the contractor's responsible managing employee or
18 residential responsible managing employee. An individual may be a
19 responsible managing employee or a residential responsible managing
20 employee for only one contractor at any given time. A separate
21 responsible managing employee is required for each full-service
22 business branch office of a contractor.

23 3. Each responsible managing employee or residential
24 responsible managing employee shall obtain a license, unlimited or
25 residential, issued by the state fire marshal and conditioned on the
26 successful completion of the examination requirement and other
27 requirements in sections 320.400 to 320.428 and prescribed by the rules
28 promulgated under these sections. To be eligible to apply for an
29 unlimited license, the applicant shall be at least twenty-one years of
30 age and shall demonstrate five years experience in the employ of a fire
31 sprinkler contractor or a combination of equivalent education and
32 experience. To be eligible to apply for a residential license, the
33 applicant shall be at least twenty-one years of age and shall
34 demonstrate three years experience in the employ of a fire sprinkler
35 contractor or a combination of equivalent education and experience. A
36 nonrefundable examination fee may be assessed by the state fire
37 marshal for administering the examination required under section
38 320.412. The fee for the issuance of either the initial or the renewed
39 unlimited or residential license shall be in an amount not to exceed one
40 hundred dollars, unless subject to subsection 2 of section 320.408.

41 4. A certificate of registration and a license shall be valid for a
42 period of one year from the date of issue and are renewable annually
43 on payment of the annual fee; provided however, that the initial
44 certificates of registration or licenses issued on or after the effective
45 date of sections 320.400 to 320.428 may be issued for periods of less than
46 one year and the annual fee shall be prorated proportionally.

47 5. A fee shall be charged by the state fire marshal for any request
48 for a duplicate certificate of registration or license or any request
49 requiring change to a certificate of registration or license. The fee
50 shall be set by the state fire marshal.

51 6. Each certificate of registration and license issued under
52 sections 320.400 to 320.428 shall be posted in a conspicuous place in the
53 contractor's place of business.

54 7. All plans, bids, proposals, offers, and installation drawings for
55 fire sprinkler systems, and all contractor vehicles displaying the
56 registered firm's name or logo, shall prominently display the
57 contractor's certificate of registration number.

58 8. Except as authorized by the state fire marshal under the rules
59 promulgated to administer sections 320.400 to 320.428, a certificate of
60 registration or license issued under sections 320.400 to 320.428 shall not
61 be transferable.

62 9. The state fire marshal shall, within the limits fixed by this
63 section and section 320.408, prescribe the fees to be charged under this
64 section and section 320.408. All fees collected under the provisions of
65 this section and section 320.408 shall be deposited into the general
66 revenue to be only used by the state fire marshal for use in carrying
67 out the administration of sections 320.400 to 320.428.

 320.408. 1. As provided in subsection 4 of section 320.406, each
2 renewal of a license or certificate of registration issued under sections
3 320.400 to 320.428 is valid for a period of one year. The license or
4 registration fee for each year is payable on renewal.

5 2. An unexpired license or certificate of registration may only be
6 renewed by paying the required renewal fee to the state fire marshal
7 before the expiration date of the license or certificate of registration.
8 If a license or certificate of registration has been expired for not longer
9 than ninety days, the license or certificate of registration may be
10 renewed by paying the required renewal fee and a fee that is one-half
11 of the original fee for the license or certificate of registration. If a
12 license or certificate of registration has been expired for longer than
13 ninety days but less than one year, the license or certificate of
14 registration may be renewed by paying to the state fire marshal all
15 unpaid renewal fees and a fee that is equal to the original fee for the
16 license or certificate of registration. If a license or certificate of
17 registration has been expired for one year or longer, the license or
18 certificate of registration may not be renewed. A new license or
19 certificate of registration may be obtained by complying with the
20 requirements and procedures for obtaining an initial license or
21 certificate of registration. This section shall not be construed to
22 prevent the state fire marshal from denying or refusing to renew a
23 license under applicable law or rules of the state fire marshal.

24 3. At least thirty days before the expiration of a license or
25 certificate of registration, the state fire marshal shall send written
26 notice of the impending license or certificate of registration expiration
27 to the licensee or registrant at the last known address.

28 4. The state fire marshal may by rule adopt a system under
29 which licenses and certificate of registration expire on various dates
30 during the year. For the year in which the license or certificate of
31 registration expiration date is less than one year from its issuance or
32 anniversary date, the fee shall be prorated on a monthly basis so that
33 each licensee or registrant shall pay only that portion of the fee that is
34 allocable to the number of months during which the license or
35 registration is valid. On each subsequent renewal, the total renewal fee
36 is payable.

 320.410. 1. The state fire marshal shall not issue a certificate of
2 registration under sections 320.400 to 320.428 unless the applicant files
3 evidence of a general liability insurance policy that includes products
4 and completed operations coverage. The limits of insurance coverage
5 required by this section shall be in an amount not less than five
6 hundred thousand dollars combined single limits for bodily injury and
7 property damage for each occurrence and not less than one million
8 dollars aggregate for all occurrences per policy year; provided
9 however, that the state fire marshal may increase or decrease the
10 amounts by rule pursuant to sections 320.400 to 320.428. The general
11 liability policy shall be conditioned to pay on behalf of the insured
12 those amounts that the insured is legally obligated to pay as damages
13 because of bodily injury and property damage caused by an occurrence
14 involving the insured or the insured's servant, officer, agent, or
15 employee in the conduct of any business registered under sections
16 320.400 to 320.428.

17 2. The evidence of general liability insurance required by this
18 section shall be in the form of a certificate of insurance executed by an
19 insurer authorized to do business in this state and countersigned by an
20 insurance agent licensed in this state. Insurance certificates executed
21 and filed with the state fire marshal under this section remain in force
22 until the insurer has terminated future liability by notice required by
23 the state fire marshal.

24 3. Failure to maintain liability insurance as required under this

25 section constitutes grounds for the denial, suspension, or revocation of
26 a certificate of registration issued under sections 320.400 to 320.428
27 after notice and opportunity for a hearing.

320.412. 1. To become a licensed responsible managing employee
2 or residential responsible managing employee under sections 320.400
3 to 320.428, an individual is required to comply with the provisions of
4 sections 320.400 to 320.428 and pass a two phase examination consisting
5 of a written technical examination and a written practical examination
6 testing the applicant's knowledge of the statutes, standards and
7 specifications regulating the activities authorized by the license,
8 relevant state business operation requirements, and demonstrating the
9 applicant's experience in the business and knowledge and ability to
10 perform tasks authorized by the license in a competent, lawful and safe
11 manner. The examination shall be developed and administered by the
12 state fire marshal, who may out source the same to a third party. There
13 shall be at least two examinations held each calendar year. Individuals
14 may obtain a license under sections 320.400 to 320.428 without
15 completing the written technical examination portion of the
16 examination if such person complies with the provisions of sections
17 320.400 to 320.428 and is also:

18 (1) An individual who has obtained and continues to hold a Level
19 III or IV certification by the National Institute for Certification in
20 Engineering Technologies in the Field of Fire Protection and in the
21 subfield of Automatic Sprinkler System Layout, or certification under
22 an equivalent program acceptable to the state fire marshal;

23 (2) An individual who has obtained and continues to hold a
24 license or registration as a professional engineer in this state and who
25 is also licensed or certified in the discipline of fire protection
26 engineering; or

27 (3) An individual who has obtained and continues to hold a Level
28 II certification by the National Institute for Certification in
29 Engineering Technologies in the Field of Fire Protection and in the
30 Subfield of Automatic Sprinkler System Layout, or certification under
31 an equivalent program acceptable to the state fire marshal. The license
32 for an individual in this category shall be a residential license, and
33 shall be limited in scope to the work of a residential responsible
34 managing employee.

35 2. Not later than the thirtieth day after the completion of the
36 examination administered under this section, the state fire marshal
37 shall send notice to each examinee of the results of the examination,
38 unless the examination is graded or reviewed by a national testing
39 service, in which case, the state fire marshal shall send notice to each
40 examinee of the results of the examination within two weeks after the
41 date on which the state fire marshal receives the results from the
42 testing service. If the notice of the examination results will be delayed
43 for longer than ninety days after the examination date, the state fire
44 marshal shall send notice to each examinee of the reason for the delay
45 before the ninetieth day. If requested in writing by a person who fails
46 the examination administered under this section, the state fire marshal
47 shall send to the person an analysis of the person's performance on the
48 examination.

 320.414. The state fire marshal may adopt procedures to certify
2 continuing education programs, including national reciprocal programs
3 conducted by recognized industry and professional groups.

 320.416. 1. The "Fire Sprinkler System Advisory Council" is
2 hereby created. The state fire marshal shall appoint the members of
3 the advisory council, who shall serve at the pleasure of the state fire
4 marshal.

5 2. The advisory council, in addition to other duties delegated by
6 the state fire marshal, shall:

7 (1) Advise the state fire marshal concerning standards of
8 practice in the fire sprinkler industry and the rules necessary to
9 implement and administer sections 320.400 to 320.428;

10 (2) Make recommendations to the state fire marshal regarding
11 forms and procedures for certificates of registration and licenses.

12 3. The advisory council shall be composed of seven
13 members. The members of the advisory council shall include at least
14 three individuals qualified to hold an unlimited license under sections
15 320.400 to 320.428 and who have been actively engaged in the
16 management of a fire sprinkler contractor or fire sprinkler system
17 business in this state for not less than five years preceding their
18 appointment, one qualified fire or building official and one licensed or
19 registered professional engineer, each knowledgeable in fire sprinkler
20 systems, one individual holding a Level III or IV National Institute for

21 Certification in Engineering Technologies (NICET) certification in the
22 field of fire protection and in the subfield of automatic sprinkler
23 system layout and one representative of the state fire marshal's office
24 who in addition to being a voting member shall serve as secretary of
25 the advisory council.

26 4. For the initial terms of the advisory council members, one
27 member shall be appointed for a term of one year, two members for a
28 term of two years, two members for terms of three years, and two
29 members for terms of four years. All terms expire on June thirtieth of
30 the last year of the term. As the initial term of a member expires, the
31 state fire marshal shall appoint a member to fill the vacancy for a term
32 of four years. The state fire marshal may remove any appointed
33 member for cause. A vacancy in the membership of the advisory
34 council for any reason shall be filled by appointment by the state fire
35 marshal for the balance of the unexpired term.

36 5. As soon as practicable after the effective date of sections
37 320.400 to 320.428, the advisory council shall meet to elect officers from
38 its membership. A majority of the advisory council shall constitute a
39 quorum. No member of the advisory council shall be paid a salary as
40 such member, but each shall receive necessary expenses while
41 attending advisory council meetings and reimbursement, including
42 travel in performance of his or her duties, as provided in state law.

320.418. A person or organization shall not:

2 (1) Plan, sell, install or service a fire sprinkler system without
3 a valid certificate of registration consistent with the scope of authority
4 and responsibility for such system;

5 (2) Act as, or hold himself or herself out to be, a contractor under
6 a certificate of registration without having at least one full-time
7 employee who holds a valid responsible managing employee license or
8 residential responsible managing employee license consistent with the
9 scope of fire sprinkler system work undertaken by the contractor;
10 provided however, that a contractor with a current certificate of
11 registration may act as a contractor consistent with such certificate for
12 sixty days after the death or disassociation of its licensed responsible
13 managing employee or residential responsible managing employee, so
14 long as such contractor immediately notifies the state fire marshal in
15 writing of the same and is not otherwise in violation of sections 320.400

16 to 320.428 or any rules adopted under sections 320.400 to 320.428. In
17 such event, the contractor's failure to employ a substitute responsible
18 managing employee consistent with the scope of business undertaken
19 within such sixty-day period shall cause the contractor's certificate of
20 registration to expire;

21 (3) Act as a responsible managing employee or residential
22 responsible managing employee for a contractor without a valid license
23 consistent with the authority and responsibility for work undertaken
24 by such contractor;

25 (4) Obtain or attempt to obtain a certificate of registration or
26 license by fraudulent representation; or

27 (5) Plan, sell, test, install or service a fire sprinkler system in
28 violation of sections 320.400 to 320.428 or the rules adopted under
29 sections 320.400 to 320.428.

320.420. 1. The state fire marshal may refuse to issue or renew
2 or may suspend or revoke a certificate of registration, license, or
3 building permit if, after notice and hearing, he finds that the applicant,
4 registrant, licensee, or permit holder has engaged in acts that:

5 (1) Violate sections 320.400 to 320.428;

6 (2) Violate the rules or standards adopted pursuant to sections
7 320.400 to 320.428; or

8 (3) Constitute misrepresentations made in connection with the
9 sale of products or services rendered.

10 2. The state fire marshal shall notify the applicant in writing of
11 the reasons for the refusal, suspension, or revocation and shall advise
12 the applicant of the right to file a complaint with the administrative
13 hearing commission as provided in chapter 621, RSMo.

14 3. The state fire marshal may cause a complaint to be filed with
15 the administrative hearing commission as provided in chapter 621,
16 RSMo, against the holder of any certificate of registration or license for
17 any of the causes included in subsection 1 of this section.

18 4. After the filing of a complaint under subsection 3 of this
19 section, the proceedings shall be conducted in accordance with the
20 provisions of chapter 621, RSMo. Upon a finding by the administrative
21 hearing commission that the grounds, provided in subsection 1 of this
22 section, for disciplinary action are met, the state fire marshal may,
23 singly or in combination, censure or place the person named in the

24 **complaint on probation on such terms and conditions as the state fire**
25 **marshal deems appropriate for a period not to exceed five years, or**
26 **may suspend, for a period not to exceed three years, or revoke the**
27 **license or certificate of registration of the person.**

28 **5. No applicant, certificate of registration holder, or licensee**
29 **whose certificate of registration or license has been denied, refused, or**
30 **revoked hereunder, except for the failure to pass a required written**
31 **examination, shall be entitled to file another application for a**
32 **certificate of registration or license in the fire sprinkler system**
33 **business in this state within one year from the effective date of such**
34 **denial, refusal, or revocation or, if judicial review of such denial,**
35 **refusal, or revocation is sought, within one year from the date official**
36 **court order or decree affirming such action. Such application, when**
37 **filed after one year, may be denied unless the applicant shows good**
38 **cause why the denial, refusal, or revocation of the certificate of**
39 **registration or license shall not be deemed a bar to the issuance of a**
40 **new certificate of registration or license.**

320.422. 1. A person is guilty of a class A misdemeanor if he or
2 **she knowingly or intentionally violates sections 320.400 to 320.428.**

3 **2. Venue for prosecution of a violation of sections 320.400 to**
4 **320.428 is in the county in which the offense is committed.**

320.428. Whenever it appears to the state fire marshal that any
2 **person, firm or corporation is violating any of the provisions of**
3 **sections 320.400 to 320.428 or the rules and regulations of the state fire**
4 **marshal promulgated under sections 320.400 to 320.428, the state fire**
5 **marshal may apply to the court for a restraining order and an**
6 **injunction to restrain the violation, and the courts of this state have**
7 **jurisdiction to grant the requested relief, irrespective of whether or not**
8 **criminal prosecution has been instituted or administrative sanctions**
9 **have been imposed by reason of the violation. The venue for actions**
10 **brought under this section shall be the court of any county in which**
11 **such acts are alleged to have been committed or in the county where**
12 **the defendants in such action reside.**

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